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KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

February 12, 2002

Ingrid M. Charter
Loopnet
2650 18th Street
San Francisco, California 94110

Re: Request for Opinion No. 2002-003
LoopLender, Inc. Licensing Requirements
File No: 2002X041

Synopsis: Staff will take a "no-action" position with respect to a loan matching service that either serves as the creditor in the proposed transaction, or receives no fee other than fees contingent on the successful procurement of a loan and reasonable fees paid by prospective lenders, provided those lenders are specifically excluded from the definition of loan broker pursuant to K.S.A. 50-1001(c)(1).

Dear Ms Charter:

You have requested an opinion concerning exemption from the registration provisions of the Kansas Loan Brokers Act ("Act"). I incorporate by reference the facts as represented in your letter of December 10, 2001. Additionally, you have imparted information regarding participating lenders as included below.

In summary, LoopLender, Inc. will provide the following services.

1. Via internet, LoopLender, Inc will provide information regarding participating lenders to prospective borrowers who visit LoopLender's website. All information on the website regarding any participating lender will be provided directly by that lender.
2. LoopLender, Inc., via one or more Master Loan Purchase Agreement(s) will itself be a lender in some instances.

3. Prospective borrowers will be able to review their options with participating lenders and submit an on-line Loan Request Form to any of the participating lenders.
4. Prospective borrowers who do not qualify for a loan from any of the participating lenders on the website may engage LoopLender, Inc. to locate, negotiate and assist the borrower in obtaining a loan.
5. LoopLender, Inc. is paid a monthly fee by participating lenders for being listed on its website. Additionally, LoopLender, Inc. receives a commission from the lender upon successful closing of a loan.
6. LoopLender, Inc. will receive a 25 basis point fee from the borrower upon successful closing of a loan.

The definition of "loan broker" at K.S.A. 50-1001(c) is worded as follows:

"Loan broker" means any person who, in return for a fee from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person.

Based on that definition and our review of the information described above, it is our position that LoopLender, Inc. is a loan broker because it provides assistance to participating borrowers in procuring loans from the participating lenders and LoopLender, Inc. receives fees from both the borrower and the participating lenders.

K.S.A. 50-1016(a)(5) and (6) provide exemptions from the registration under the Act for any person whose fee is wholly contingent on successful procurement of a loan from a third party and any person who is a creditor or is proposed to be a creditor for any loan. In so far as LoopLender, Inc. is proposed to be a creditor for any loan, it is exempt from the provisions of K.S.A. 50-1002 through 50-1008, 50-1014 and 50-1015. LoopLender, Inc. collects both fees that are contingent upon successful procurement of a loan plus listing fees from participating lenders. K.S.A. 50-1016(a)(5) exempts persons that charge only contingent fees, thus LoopLender's practice of charging listing fees places it outside the exemption.

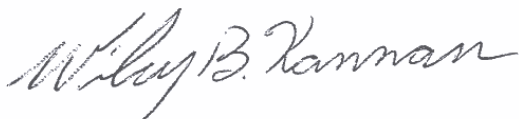
K.S.A. 50-1001(c)(1) excludes from the definition of "Loan broker" "any bank, savings bank, trust company, savings and loan association, credit union or any other financial institution regulated by any agency of the United States or any state". Based on information conveyed during phone conversations, it is the understanding of staff of the Office of the Kansas Securities Commissioner that all participating lenders who pay a fee to LoopLender, Inc. for listing on its website, are entities which would themselves be excluded from the definition of "Loan broker" pursuant to the exclusions provided by K.S.A. 50-1001(c)(1).

Based on the representation that all entities paying a listing fee are entities excluded from the definition of Loan broker by K.S.A. 50-1001(c)(1), staff will recommend no enforcement action be taken by the Commissioner with respect to the activities of LoopLender, Inc. described in its letter of December 10, 2001, and in phone conversations as reiterated herein.

Please note that LoopLender, Inc. and participating lenders are still subject to the anti-fraud provisions of the Kansas Loan Broker Act under K.S.A. 50-1017 and the provisions of K.S.A. 50-1009 through 50-1013 with respect to the powers of the Commissioner, penalties and violations.

The no-action position provided by this letter is based on the written representations and documentation provided by you and LoopLender, Inc. and does not extend to any other similar fact situations of other loan brokers. Any variation in the facts presented to us could result in different conclusions. This letter is intended solely as an expression of enforcement policy and is not binding upon any court or other tribunal.

Sincerely,

A handwritten signature in cursive script, reading "Wiley B. Kannarr".

Wiley B. Kannarr
Associate General Counsel